

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
FT. LAUDERDALE DIVISION**

**Case No. 0:23-cv-61346-AHS**

Jose Luis Torres,

Plaintiff,

vs.

Barreiro's Service LLC,  
El Mago's Roofing Corp.,  
Dayron Barreiro  
and Merlyn Santos

Defendants.

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**AMENDED STATEMENT OF CLAIM**

COMES NOW, Plaintiff, Jose Luis Torres, by and through undersigned counsel, pursuant to the Order in Actions brought under the Fair Labor Standards Act, and files this Statement of Claim and says as follows:

1. On or around December 1, 2016, Mr. Torres started working for Barreiro's Service LLC, El Mago's Roofing Corp., Dayron Barreiro and Merlyn Santos as a laborer.
2. Mr. Torres used to work 84 hours per week and was paid for all those hours at his regular rate, which was \$15.00 per hour.
3. Furthermore, Defendants used to make unlawful deductions from Mr. Torres' paychecks to pay the company's workers compensation insurance.
4. Mr. Torres complained to his supervisor about these issues.
5. Finally, Mr. Torres was terminated on December 1, 2022, in retaliation for Mr. Torres asserting his rights under the FLSA provisions.

6. Mr. Torres is owed approximately **\$34,320.00 in unpaid overtime** by Defendants, broken down as follows: Mr. Torres worked approximately 4,576 hours of overtime from December 1, 2020, to December 1, 2022.
7. Mr. Torres was not paid one and one-half times his regular rate of pay per overtime hours worked.
8. In addition, Defendants used to make improper deductions from Mr. Torres' weekly checks in the amount of \$60.00, to pay for the company's worker's compensation insurance.
9. This increases the amount of this claim by an additional **\$6,240.00**.
10. Mr. Torres is owed an additional amount in liquidated damages for the unpaid overtime and illegal deductions.
11. Additionally, it must be noted Defendant's predominantly paid Plaintiff in cash and did not keep any time records and as such he has no pay stubs or time records to produce to Defendant. If some are later found in discovery then Plaintiff will produce to Defendants
12. Ms. Torres was also terminated unlawfully after complaining about the improper payment of his wages and is owed damages as follows:

**Back Pay** – Plaintiff claims an award of back pay and prejudgment interest to be calculated based on an estimated annual compensation package of \$82,680 per year including bonuses, and benefits. Defendant, as result of its discriminatory conduct, unlawfully terminated Plaintiff's employment on or about December 1, 2022. As such, Plaintiff claims back wages in the amount of \$60,420.00 to date, and which amount shall continue to accrue until judgment is rendered.

**Front Pay** – To the extent that Defendant has failed to make any offer to reinstate Plaintiff to the position at the rate of pay and with the full benefits Plaintiff would have had had Plaintiff not been discriminated against by Defendant, Plaintiff claims an award of front pay to be calculated based on an estimated annual compensation package of \$82,680 per year including bonuses, and benefits, for a period of two (2) years—or approximately \$165,360.

**Compensatory Damages** – Plaintiff claims an award for compensatory damages for medical expenses, mental anguish, personal suffering, and loss of enjoyment of life in the estimated amount of \$300,000.00 to date. Plaintiff can testify that Plaintiff suffered severe mental and emotional trauma as the result of Defendant's unlawful retaliatory conduct.

Given that Plaintiff's suffering is on-going, Plaintiff hereby places Defendant on notice that he is reserving the right to adjust his claim for compensatory damages as necessary.

**Attorney Fees and Costs** – Plaintiff claims an award of the costs of this action, together with a reasonable attorney fees.

Dated August 23, 2023

Respectfully submitted,

By: /s/ Elvis J. Adan

Elvis J. Adan, Esq.

Fla. Bar No.: 24223

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### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 23, 2023 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

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